

1 LACY H. (“Lance”) KOONCE, III (*admitted pro hac vice*)

GILI KAREV (Bar Number: 348774)

2 **KLARIS LAW**

3 430 W 14th St.

New York, NY 10014

4 Telephone:(917) 612-5861

5 Email: lance.koonce@klarislaw.com

6 Attorneys for Plaintiffs the Tolkien Trust and the Tolkien Estate Limited.

7
8 **IN THE UNITED STATES DISTRICT COURT**

9 **THE CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

10
11
12 THE TOLKIEN TRUST and
13 THE TOLKIEN ESTATE
LTD

14 Plaintiffs,

15 v.

16 DEMETRIOUS POLYCHRON,
17 Defendant.

Case No. 2:23-cv-04300-SVW(Ex)

**DECLARATION OF LACY H.
KOONCE, III IN SUPPORT OF
PLAINTIFFS’ MOTION TO HOLD
DEFENDANT IN CONTEMPT**

DECLARATION OF LACY H. KOONCE, III

I, Lacy H. Koonce, III, declare as follows:

1. I am a partner at Klaris Law PLLC and have been admitted *pro hac vice* to practice before this Court. I am counsel for Plaintiffs The Tolkien Estate Limited and The Tolkien Trust in the above-referenced matter. I submit this declaration in support of Plaintiffs' Motion to Hold Defendant in Contempt.

2. On September 19, 2023, the Estate filed a Motion for Summary Judgment and Permanent Injunction to prevent further infringement of the Estate's copyright interests by Defendant. On December 13, 2023, the Court granted the motion and entered an Order, *inter alia*, permanently enjoining Defendant from continuing to exploit the Infringing Work.

3. Defendant has failed to comply with the Court's Order by, at a minimum, failing to submit the certification required by the Court and by continuing to offer Infringing Work for sale and download on Google Play for \$17.95. See **Exhibit A** attached hereto.

4. Counsel for Plaintiffs have attempted to discuss Defendant's non-compliance with Defendant's counsel, Katie Charleston, prior to filing the present motion in accordance with the Local Rules. However, after at first failing to respond, Ms. Charleston responded that she "no longer represent[s] Mr. Polychron" and has refused to make herself available for a call with counsel. This email exchange is attached hereto as **Exhibit B**.

Executed this 12th day of January, 2023 in Pelham, New York.



Lacy H. Koonce, III

Exhibit A

From: [Google Play](#)
To: lancekoonce@gmail.com
Subject: Your Google Play Order Receipt from Jan 9, 2024
Date: Tuesday, January 9, 2024 11:39:16 AM

Google Play

Thank you for your payment

You bought a book on Google Play.

Order number: GPB.3138-6239-7461-40275

Order date: Jan 9, 2024 11:39:13 AM EST

Item	Price
The Fellowship Of The King	\$17.95
Digital Book Purchase	
	Tax: \$0.00
	Total: \$17.95
Payment method:	Mastercard-5031

Additional information

Language: English

Features: [Flowing text](#), [Google-generated PDF](#)

Seller: Google LLC

Author: Demetrious Polychron

Publisher: Fractal Books

Published on: Sep 22, 2022

ISBN: 9798986410456

Best for: [web](#), [tablet](#), [phone](#), [eReader](#)

Pages: 369

Read aloud: Available on Android devices

Content protection: This content is DRM protected.

Export option: [Available](#)

Genres: Fiction / Fairy Tales, Folk Tales, Legends & Mythology

Reading Information: The book you have purchased is now available for you to read from [your books library on Google Play](#), via [your Android](#), [iOS](#) or [Chrome](#) app, or downloaded onto [eReader devices](#) that support Adobe Digital Editions. May be downloaded to

device for reading offline.

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Exhibit B

Friday, January 12, 2024 at 18:36:14 Israel Standard Time

Subject: Re: Polychron cases
Date: Tuesday, January 9, 2024 at 10:57:17 PM Israel Standard Time
From: Katie Charleston
To: Lance Koonce
CC: Jampol, Nicolas, Levine, Amanda, Gili Karev, Cathleen Fox

All orders have been provided to Mr. Polychron. We will reach out to the court regarding our withdrawal.

Sincerely,
Katie Charleston, Esq.

KATIE CHARLESTON LAW, PC

KatieCharlestonLaw.com

Phone: [\(317\) 663-9190](tel:(317)663-9190)

Fax: [\(317\) 245-6258](tel:(317)245-6258)

Nevada State Bar #14354

Indiana Attorney #[35139-29](#)

Texas State Bar #[24104606](#)

California State Bar #252422

Florida State Bar #[1026112](#)

United States Supreme Court Bar #311811

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On Jan 9, 2024, at 12:50PM, Lance Koonce <lance.koonce@klarislaw.com> wrote:

Katie:

The cases in which you appeared as Mr. Polychron's counsel are still pending and you have not been relieved of your role as counsel of record, despite your requests. In those circumstances, we do not believe that your obligations to the Court or your client have ended. Please point us to any support to the contrary. Failing that, we expect to set a time to talk with you ASAP on the topics mentioned in my prior emails.

Further, please confirm immediately that you have provided to Mr. Polychron a copy of the Permanent Injunction Order, as well as the Order and Judgment, in the case brought by The Tolkien Estate.

Regards,

Lance

Lance Koonce (he/him)

Partner | (917) 612-5861 | [Bio](#) | [LinkedIn](#)

[<image001.png>](#)

From: Katie Charleston <katie@katiecharlestonlaw.com>

Sent: Tuesday, January 9, 2024 3:41 PM

To: Lance Koonce <lance.koonce@klarislaw.com>

Cc: Jampol, Nicolas <NicolasJampol@dwt.com>; Levine, Amanda <AmandaLevine@dwt.com>; Gili Karev <gili.karev@klarislaw.com>; Cathleen Fox <cathleen@katiecharlestonlaw.com>

Subject: Re: Polychron cases

All,

I no longer represent Mr. Polychron. Please direct your correspondence to him directly.

Thanks.

Sincerely,

Katie Charleston, Esq.



KATIE CHARLESTON LAW, PC

KatieCharlestonLaw.com

Phone: (317) 663-9190

Fax: (317) 245-6258

Nevada State Bar #14354

Indiana Attorney #35139-29

Texas State Bar #24104606

California State Bar #252422
Florida State Bar #1026112
United States Supreme Court Bar #311811

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On Tue, Jan 9, 2024 at 3:21 PM Lance Koonce <lance.koonce@klarislaw.com> wrote:

Katie:

I am writing to follow up on my email from last week, which has gone unanswered. We really need to speak to you about the Polychron matters.

Specifically, your client is in direct violation of the Court's permanent injunction order in the case brought by the Tolkien Estate, which required him within 10 business days of the date of the Order to permanently destroy all physical and electronic copies of the work, and to file a declaration certifying he has done so with the Court. You have not yet filed such a declaration. Further, his book is still available at least on Google Books – I was able to purchase a copy and download it just this morning.

We intend to move for an Order finding Mr. Polychron in contempt of court, and to ask for daily penalties for contempt until he complies. As you remain counsel of record, it is your obligation to advise him of same, and if we do not hear from you we will note this in our application to the Court.

Separately, as previously indicated, we – along with Mr. Jampol and Ms. Levine – wish to discuss with you how your client intends to satisfy the attorneys fee award in the case he brought.

Please let us hear from you immediately.

Regards,

Lance

Lance Koonce (he/him)
Partner | (917) 612-5861 | [Bio](#) | [LinkedIn](#)

[<image001.png>](#)

From: Lance Koonce

Sent: Friday, January 5, 2024 1:44 PM

To: Katie Charleston <katie@katiecharlestonlaw.com>

Cc: Jampol, Nicolas <NicolasJampol@dwt.com>; Levine, Amanda <AmandaLevine@dwt.com>; Gili Karev <gili.karev@klarislaw.com>

Subject: Polychron cases

Katie:

Hope that your New Year is starting off well. I am reaching out on behalf of the Tolkien Estate, with the consent of Amazon (with Nick and Amanda copied here), to see if we can set up a call with you this week to discuss next steps in the two matters involving Mr. Polychron, in particular, we all need to discuss with you his satisfaction of the attorney fee award in the case he brought. Separately, I need to speak with you about the obligations imposed in the permanent injunction issued by the Court in the case brought by the Estate.

Please let us know a good time to speak with all of us early next week.

Regards,

Lance

Lance Koonce (he/him)

Partner

430 West 14th Street

New York, NY 10014

(917) 612-5861

[Bio](#) | [LinkedIn](#)

[<image001.png>](#)